

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ANTWAN S. COTTEN,

Defendant.

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Case No. 3:02cr039

JUDGE WALTER HERBERT RICE

DECISION AND ENTRY OVERRULING DEFENDANT'S MOTION FOR
REDUCTION OF SENTENCE PURSUANT TO 18 U.S.C. §3582(c)(2)
(DOC. #81)

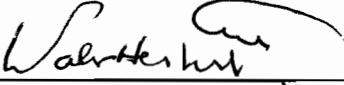
The Defendant's Motion for Reduction of Sentence, pursuant to 18 U.S.C. §3582(c)(2) (Doc. #81), directed to the conviction in Count Three, possessing with intent to distribute in excess of five grams of cocaine base, is overruled.

The Defendant was sentenced on April 13, 2005, to the mandatory minimum term of imprisonment on the cocaine base charge. No appeal was taken from said sentence which was journalized in a Judgment Entry filed April 26, 2005 (Doc. #73). The Fair Sentencing Act became effective on November 1, 2010, for all offenses committed on or after August 3, 2010. Defendant bases his claim for relief on Dorsey v. United States, 132 S.Ct. 2321 (2012). However, reliance on that Supreme Court authority is unavailing, due to the fact that the Defendant's

case was no longer deemed "pending" on August 3, 2010. See United States v. Finley, No. 10-3672, 2012 WL 2505630, at *5 (6th Cir. June 29, 2012) (holding that Dorsey does not help offenders sentenced after August 3, 2010); United States v. Gladney, No. CR-05-6023, 2012 WL 3067393, at *1 (E.D. Wash. July 27, 2012) (denying motion for reduction of sentence under § 3582(c)(2) because Dorsey did not apply to defendant who was sentenced well before the Fair Sentencing Act). In short, not only was Defendant's offense committed on or before August 3, 2010, but said offense was fully resolved over five years prior to the effective date of the Fair Sentencing Act.

Accordingly, based upon the aforesaid, the Defendant's Motion for Reduction of Sentence, pursuant to 18 U.S.C. §3582(c)(2) (Doc. #81), is deemed by this Court to be not well taken and same is, therefore, overruled in its entirety.

August 21, 2012



WALTER HERBERT RICE
UNITED STATES DISTRICT JUDGE

Copies to:

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